

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

John Turner

Plaintiff,

vs.

High Desert State Prison, et al.,

Defendants.

Case No.: 2:13-cv-1740-JAD-VCF

Order

[77, 84, 102]

Pro se prisoner plaintiff John Turner alleges violations of his civil rights. After Defendant Nevada Department of Corrections (NDOC) moved for summary judgment, I issued a notice under *Klinge* v. *Eikenberry*¹, and *Rand* v. *Rowland*,² informing Turner of the potential consequences of NDOC's motion. Docs. 36, 37. Turner then filed a countermotion for summary judgment, which prompted another *Klinge* notice (Docs. 74, 75), a "Motion to Dismiss" NDOC's summary-judgment motion (Doc. 77), and a supplemental statement of facts in support of his summary-judgment countermotion. Doc. 94. Turner asks me to clarify who my second *Klinge* notice is directed to (Doc. 77), and NDOC moves to strike Turner's supplemental fact statement. Doc. 102. I now grant the motion for clarification and NDOC's motion to strike, and I deny Turner's motion to "dismiss" NDOC's summary judgment motion.

1. Turner's Motion for Clarification (#84)

Turner's filing of a countermotion for summary judgment (Doc. 74) automatically prompted a second *Klinge* notice. Doc. 75. These notices are automatically issued whenever a dispositive motion is filed in a case involving a pro se prisoner plaintiff. Because I understand Mr. Turner may have been confused by the issuance of this notice in response to his countermotion, I grant the motion for clarification (Doc. 84) and clarify that the order does not require any additional response

¹ 849 F.2d 409 (9th Cir. 1988).

² 154 F.3d 952 (9th Cir. 1998).

1 or filing from Turner regarding the pending motion and countermotion for summary judgment.

2 Those motions are now fully briefed.

3 **2. Turner’s “Motion to Dismiss” NDOC’s Motion for Summary Judgment (#77)**

4 Turner filed a response to NDOC’s motion for summary judgment (Docs. 39, 40), and NDOC
5 filed its reply. Doc. 42. Turner then filed his own countermotion for summary judgment (Doc. 74),
6 followed by a flurry of “supplemental” summary-judgment-related documents that this court struck
7 with the instruction that supplemental filings are not permitted by the rules of this court. Doc. 69.
8 Turner was “cautioned that his filings must comply with all the rules of this court, and no
9 supplemental briefs, letters, or other filings with respect to summary judgment issues will be
10 permitted; any such supplements will be stricken and disregarded without further prior notice.” *Id.*

11 Nevertheless, Turner filed a “Motion to Dismiss” NDOC’s summary-judgment motion. Doc.
12 77. To the extent this “motion” challenges NDOC’s summary-judgment motion, it is an improper
13 means for doing so. Plus, Turner has already exhausted his opportunity to respond to that motion
14 (*see* Docs. 39, 40); it is therefore denied as an improper method for challenging that filing. To the
15 extent it merely seeks sanctions against a defendant, it is redundant of the arguments contained in
16 Turner’s motions for sanctions filed at documents 78 and 80, and it is denied as duplicative.

17 **3. NDOC’s Motion to Strike Supplemental Filing (#102)**

18 Despite my order instructing Turner to file no additional summary-judgment briefing, Turner
19 filed a document entitled “further evidence to support summary judgment in his favor.” Doc. 94.
20 NDOC moves to strike this document as a rogue, unauthorized supplement filed without leave of
21 court. Doc. 102. For the reasons expressed in my order at document 69, I grant NDOC’s motion
22 (Doc. 102), and order this supplemental filing (Doc. 94) stricken. I also caution Turner that
23 continued failure to comply with the court’s orders may lead to the imposition of sanctions. **The**
24 **pending motions for summary judgment are fully briefed; further briefing on these issues will**
25 **be stricken.**

26 **Conclusion**


27 Accordingly, it is hereby ORDERED that Turner’s Motion for Clarification [Doc. 84] is
28 **GRANTED.** The court clarifies that no further briefing is needed in response to either pending

1 motion for summary judgment;

2 IT IS FURTHER ORDERED that Turner's Motion to Dismiss the Motion for Summary
3 Judgment **[Doc. 77] is DENIED**; and

4 IT IS FURTHER ORDERED that NDOC's Motion to Strike Plaintiff's supplemental
5 evidence **[Doc. 102] is GRANTED**; the Clerk of Court is directed to **strike Document 94** from the
6 record.

7 February 13, 2015

8 
9 JENNIFER DORSEY
United States District Judge